

STATE OF SOUTH CAROLINA) BEFORE THE STATE ETHICS COMMISSION
COUNTY OF RICHLAND)

In the Matter of:)
COMPLAINT C2012-005)

Donna Moore Wesby,)
Respondent,)

David Smith,)
Complainant.)
_____)

DECISION AND ORDER

STATE ETHICS
COMMISSION

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This matter comes before the State Ethics Commission by virtue of a complaint filed by the Complainant, David Smith, on July 8, 2011. On September 21, 2011, pursuant to S.C. Code Ann. §8-13-320(10)(i)(Supp. 2010), the State Ethics Commission reviewed for probable cause the above-captioned complaint charging Respondent, Donna Moore Wesby, with a violation of Section 8-13-700(A) and Section 8-13-740.

Present at the meeting were Commission Members Phillip Florence, Jr., Chairman, E. Kay Biermann-Brohl, Edward E. Duryea, JB Holeman, Priscilla L. Tanner, and George Carlton Manley. Also present were the Commission's Executive Director, Herbert R. Hayden, Jr., and his immediate staff.

The following allegations were considered:

On July 8, 2011 the State Ethics Commission received a complaint filed by David Smith of Aiken, SC against Donna Moore Wesby, School Board member, Aiken County. The complaint alleged that the Respondent violated Section 8-13-740 (4) when the Respondent's mother appeared before the School Board in support of a specific action. It was also alleged that the Respondent hosts a television program on local channels entitled "Education Matters with Donna Moore Wesby". The Respondent benefits from this program by using information derived from her public position on the School Board.

Also, the Respondent has been urging citizens attending School Board meetings not to support the School Choice Bill nor the Point of Sale Bill, going so far as to request citizens to call members of the General Assembly to tell them to vote no.

STATEMENT OF FACTS

Having carefully reviewed the evidence presented, the Commission finds as fact:

1. The Respondent, Donna Moore Wesby, is an elected member of the Aiken County School Board.
2. Respondent advised that she does a weekly radio talk and television program called Education Matters with Donna Moore Wesby. She does provide biography data in this program that she is a school board member. Respondent stated that discussions regarding her doing this program started in 2008 before she was elected to the school board. She advised she does receive some compensation from her programs in the form of a commission from advertisements, which the investigation confirmed. Respondent stated that she did not use her school board position to obtain her program.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Commission concludes, as a matter of law:

1. The Respondent, Donna Moore Wesby, is a public official as defined by Section 8-13-100(27).
2. The State Ethics Commission has personal and subject matter jurisdiction.
3. Section 8-13-700(A) prohibits a public official from using his official office to obtain an economic interest for himself.
4. Section 8-13-740(A) prohibits a public official of a county from knowingly representing a person before an agency, unit, or subunit of that county for which the

public official has official responsibility. No such prohibition exists as to a public official's family member.

DECISION

Based upon the evidence presented, the State Ethics Commission has determined that there is not probable cause to indicate that the Respondent, Donna Moore Wesby, violated Section 8-13-700(A) or 8-13-740(A). The Commission has therefore dismissed the charges in accordance with Section 8-13-320(10)(i) and the rules and regulations promulgated thereunder.

IT IS SO ORDERED THIS 10th DAY OF Dec., 2011.

STATE ETHICS COMMISSION


PHILLIP FLORENCE, JR.
CHAIRMAN

COLUMBIA, SOUTH CAROLINA